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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

ANDREA NICOLE COSTELLO, an  
individual;

Plaintiff,

vs.

GLEN WOOD COMPANY d/b/a WOOD  
BROTHERS RACING, a foreign  
corporation; DOE Individuals 1-10; DOE  
Employees 11-20; and ROE Corporations 21-  
30;

Defendants.

Case No. 2:19-cv-01752-APG-BNW

**STIPULATION AND [PROPOSED] ORDER  
FOR LEAVE TO FILE THIRD-PARTY  
COMPLAINT AGAINST NEVADA  
SPEEDWAY, LLC**

Plaintiff ANDREA NICOLE COSTELLO and Defendant GLEN WOOD COMPANY d/b/a WOOD BROTHERS RACING (hereafter “Glen Wood”), by and through their respective undersigned counsel of record, and stipulate as follows for an order granting Glen Wood leave to file its [Proposed] Third-Party Complaint against Nevada Speedway, LLC.

WHEREAS, this is a personal injury case in which Plaintiff claims Glen Wood’s employee, while acting in the course and scope of his employment as a Glen Wood race team member, injured Plaintiff while she was in the restricted pit area of the Las Vegas Motor Speedway, during a NASCAR race that took place on or about September 16, 2018, pursuant to a Single Event License Pass issued by NASCAR. (*See Pl.’s Compl.*, at ¶¶ 9-15.)

WHEREAS, based on information recently learned, Defendant Glen Wood seeks to implead Nevada Speedway, LLC, which Defendant believes is the owner and operator of the Las

Vegas Motor Speedway, under the doctrines of equitable indemnity and contribution based upon Glen Wood's information and belief regarding the existence of an agreement between Nevada Speedway, LLC and Glen Wood providing for such indemnity. (See Glen Wood's [Proposed] Third Party Complaint against Nevada Speedway, LLC, attached hereto as **Exhibit A.**)

WHEREAS, Federal Rule of Civil Procedure 14(a)(1) provides a defending party may, as a third-party plaintiff, implead "a nonparty who is or may be liable to it for all or part of the claim against it."

WHEREAS, "[t]he decision whether to implead a third-party defendant is addressed to the sound discretion of the trial court" (*Sw. Administrators, Inc. v. Rozay's Transfer*, 791 F.2d 769, 777 (9th Cir. 1986)); who in exercising such discretion considers the following four factors: "prejudice to the original plaintiff, complication of issues at trial, likelihood of trial delay, and timeliness of the motion to implead" (*Paradise Nw. Inc. v. Randhawa*, No. 2:09CV02027 MCE DAD, 2010 WL 1487874, at \*1 (E.D. Cal. Apr. 13, 2010)).

WHEREAS, impleader of Nevada Speedway, LLC as a third-party defendant is proper under Rule 14(a) because Nevada Speedway, LLC's liability to Glen Wood under the doctrine of equitable indemnity/contribution is derivative of Glen Wood's alleged liability to Plaintiff. *See Stewart v. Am. Int'l Oil & Gas Co.*, 845 F.2d 196, 199 (9th Cir. 1988) (clarifying "a third-party claim may be asserted only when the third party's liability is in some way dependent on the outcome of the main claim and is secondary or derivative thereto").

WHEREAS in the January 29, 2020 Stipulation and Order to Extend Discovery (First Request) (ECF No. 17) entered by Magistrate Brenda Weksler set April 14, 2020, as the deadline for joining non-parties. (See ECF No. 17, at 3:11.)

WHEREAS Glen Wood, by the instant stipulation and proposed order, timely seeks leave to implead Nevada Speedway, LLC before the April 14, 2020 deadline.

WHEREAS Plaintiff does not object to the impleader of Nevada Speedway, LLC and the parties have not exchanged expert reports or conducted depositions.

WHEREAS Third-Party Defendants Speedway Motorsports, Inc. and Speedway Motorsports LLC have not answered or otherwise appeared in this matter.

WHEREAS, because Glen Wood's proposed claims against Nevada Speedway, LLC are based on Plaintiff's allegations against Glen Wood (*see* ECF No. 11, at 2:10-13), the impleader of Nevada Speedway, LLC will not unduly complicate the issues at trial or inject extraneous issues into the action.

NOW THEREFORE, Plaintiff and Glen Wood stipulate and respectfully request that the Court enter an order granting Glen Wood leave to file the attached [Proposed] Third Party Complaint against Nevada Speedway, LLC.

Dated this 10<sup>th</sup> day of February 2020.

Dated this 10<sup>th</sup> day of February 2020.

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### **ORDER**

Good cause having been shown, and on stipulation of the parties, the Court hereby grants Defendant GLEN WOOD COMPANY d/b/a WOOD BROTHERS RACING leave to file its [Proposed] Third Party Complaint against Nevada Speedway, LLC.

**IT IS SO ORDERED**

**DATED: February 11, 2020**

**BRENDA WEKSLER**

**UNITED STATES MAGISTRATE JUDGE**